



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/599,736	06/23/2000	Ove Strandberg	59864.00634	1504
32294	7590	08/25/2006	EXAMINER	
SQUIRE, SANDERS & DEMPSEY L.L.P.			HO, CHUONG T	
14TH FLOOR			ART UNIT	
8000 TOWERS CRESCENT			PAPER NUMBER	
TYSONS CORNER, VA 22182			2616	

DATE MAILED: 08/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/599,736

Applicant(s)

STRANDBERG ET AL.

Examiner

CHUONG T. HO

Art Unit

2616

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 July 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-19 and 21-30.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See attachment.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


HUY D. VU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

1. The amendment after final rejection filed 07/31/06 have been entered and made of record.

Applicant's arguments after final rejection filed 07/31/06 have been fully considered but they are not persuasive.

In the page 17, lines 2-6, the applicant alleged that "Reininger discloses that at the server, the terminal QoS controller computes and renegotiates the bit rate necessary to maintain a desired target quality. However, there is no teaching or suggest in Reininger of negotiating at least one parameter of constraint based on an indication of the operating condition at the first router, as recited in the presently pending claims." The Applicant's argument is not persuasive.

Reininger (U.S. Patent No. 6,404,738 B1) discloses or suggests negotiating at least one parameter of constraint based on an indication of the operating condition at the first router (see col. 4, lines 25-35, in yet another preferred embodiment an application can request bandwidth from a network in terms of soft quality of service while connection is in progress, the application can also renegotiate soft quality of service requirements, and the quality of service controllers compute and negotiate bit-rates necessary to maintain quality). Therefore, Reininger discloses or suggests negotiating at least one parameter of constraint based on an indication of the operating condition at the first router.

In the page 18, lines 10-14, the applicant alleged that "Pashtan does not teach or suggest adjusting at least one parameter of constraint of incoming traffic flow based on said indication, wherein said adjusting comprises renegotiating the at least one

parameter of constraint or providing a recommendation based on the at least one parameter of constraint.

The applicant's argument is not persuasive.

Pashtan discloses or suggests adjusting at least one parameter of constraint of incoming traffic flow based on said indication (see col. 6, lines 56-60, a signaling protocol, such as signaling 450-53, may be added between network elements for back propagation traffic flow adjustment requests. The request to adjust the traffic includes information such as the selected micro flows that make up the communication flow, the current DS value, and the target DS value) (see col. 6, lines 34-36, changing states) (see col. 3, lines 28-35, adjustments).

Claims 4-7, 9, 14-18, 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combined system (Arunachalam – Barri – Reininger) in view of Pashtan (U.S. Patent No. 6,542,466 B1. Reininger discloses or suggests wherein said adjusting (see col. 5, lines 35-40, adjusting) comprises renegotiating (see col. 8, lines 64-67) the at least one parameter of constraint or providing a recommendation based on the at least one parameter of constraint.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHUONG T. HO whose telephone number is (571) 272-3133. The examiner can normally be reached on 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2616

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

08/09/06